

## REMARKS

Claims 1, 59-62 and 67 have been amended. New claims 73-88 have been added. Pending claims 1-4, 6-29, 31-62 and 66-88 follow. The claim amendments and new claims are supported by the application and do not present new matter. Reconsideration of the application, as amended, is respectfully requested.

### **I. Remarks In The June 22, 2005 Office Action Specifying Oil As The Asserted “Ingredient”.**

Applicants extend their appreciation to the Examiner for specifying that “oil” is the asserted solid or semi-solid gelatinous ingredient that is not extracted from the food item and that at least partially liquefies or melts from the solid or semi-solid state and generates steam when heated. (June 22, 2005 Office action, para. 9).

In particular, the Office action states “the Examiner already stated that oil is a gelatinous ingredient that is applied to the cooking food.” (Office action, para. 9). The Office action also states that “such an oil is applied to the item before cooking and is not extracted from the food item.” (Office action, para. 9). The Office action also states that “when the grill is heated the gelatinous ingredient (oil) at least partially liquefies or melts from the semi-solid state and generates steam, the steam being applied to flavor the food item.” (Office action, para. 9).

The following remarks are submitted based on the identification of “oil” as the asserted ingredient in Applicants’ claims.

### **II. “Oil” As Described By Housley**

Applicants have studied Housley and determined that this patent refers to “oil” in only five instances. The first reference to “oil” is in the Abstract:

The cooking grill supports a second cooking environment for preparing foods, wherein **liquids** (i.e., water, oil, grease, etc.) may be collected **from** those **food items** disposed on or suspended above the upper cooking surface of the cooking grill. (Housley, Abstract) (emphasis added).

Four other references to “oil” appear in the specification in the same context:

As will be further appreciated, the upper cooking surface of the cooking grill provides a second cooking environment for preparing foods, wherein **liquids** (e.g., water, oil, grease, etc.) may be collected **from** one or more **food items** positioned on or suspended above the upper cooking surface of the cooking grill. (Housley, col. 2, lines 59-64) (emphasis added).

In cooperation with the plurality of openings 36, collection channels 38 may be formed in the upper cooking surface 32 so as to provide means for feeding **run-off liquids** (e.g., water, oil grease, etc.) through the openings 36 and into the underlying collection reservoir 34 of the cooking grill 30. (Housley, col. 5, lines 60-65) (emphasis added).

In cooperation with the plurality of openings 136, collection channels 138 may be formed in the upper cooking surface 156 to provide means for feeding **run-off liquids** (e.g., water, oil, grease, etc.) through the openings 136 and into the underlying collection reservoir 158 of the cooking grill 150. Functionally, the collection reservoir 158 of the cooking grill 150 provides means for collecting run-off liquids extracted from food item(s) positioned on or suspended above the upper cooking surface 156 of the cooking grill 150. The **liquids** generally **flow** by way of gravity into the collection channels 138 which tend to divert the fluid flow through the openings 136 formed in the upper cooking surface 156 of the cooking grill 150 and into the collection reservoir 158 for accumulation. (Housley, col. 9, line 58 - col. 10, line 4) (emphasis added).

In cooperation with the openings 136, collection channels 138 may be formed in the upper surface of the containment lids 164 to facilitate means for feeding **run-off liquids** (e.g., water, oil, grease, etc.) through the openings 136 formed in the upper surface and into the underlying collection chamber 165 of the containment lid 164. Functionally, the collection chamber 165 of the cooking grill 150 provides for collecting **run-off liquids extracted from food item(s)** positioned on or suspended above the upper cooking surface of the containment lid 164. The **liquids** generally **flow** by way of gravity into the collection channels 138 which tend to divert the fluid flow through the openings 136 and into the collection chamber 165 of the respective containment lid 164. (Housley, col. 10, lines 15-21) (emphasis added).

Thus, every reference to “oil” in Housley is in the context of a run-off liquid or fluid that can flow. Further, every reference to “oil” in Housley is made in conjunction with water and grease. Moreover, every reference to “oil” in Housley is in the context of run-off liquids that are extracted from a food item.

Applicants respectfully submit that the Office action's reliance on "oil" as described in Housley cannot support the rejection, as demonstrated by the following remarks.

**III. Claims 1, 2, 6, 14, 15, 18, 19, 23, 27-29, 31, 39-42, 45, 47, 49, 50, 53, 56, 59-62, 66-69 and 70-72 Novel Over Housley.**

Independent claims 1, 15, 39 and 53 and respective dependent claims 2, 6, 14, 15, 18, 19, 23, 27-29, 31, 40-42, 45, 47, 49, 50, 56, 59-62, 66-69 and 70-72 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,988,045 to Housley ("Housley").

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference MPEP § 2131 (emphasis added); *Moab, BEVY. v. Diamond Automation, Inc.*, 325 F.3d 1306 (Fed. Cir. 2003). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Applicants respectfully traverse the rejection. In order to expedite prosecution of the application, Applicants offer the following remarks.

**A. Run-Off Oil Liquids Are Not "Solid or Semi-Solid" Ingredients.**

Applicants' respectfully submit that Housley does not disclose or suggest "a solid or semi-solid gelatinous ingredient..." as recited in independent claim 1 and the "solid or semi-solid" limitations of dependent claims 70-72.

In paragraph 9 of the Office action, "oil" is specified as the asserted "ingredient" recited in Applicants' claims. Housley, however, clearly contradicts this assertion since Housley explains that the described oil is a liquid: "liquids (i.e., water, **oil**, grease, etc.)..." (Housley, col. 2, lines 59-64); "run-off liquids (e.g., water, **oil** grease, etc.)..." (Housley, col. 5, lines 60-65 and col. 9, line 58 - col. 10, line 4). Moreover, Housley recites "the liquids generally **flow** by way of gravity into the collection channels 138 which tend to divert the fluid flow..." (Housley, col. 9, line 58 - col. 10, line 4) (emphasis added).

The Office action, therefore, misconstrues Housley, particularly considering that every reference to "oil" is in the context of a run-off liquid, in conjunction with water and grease run-off liquids. Further, it is well known that a solid and a semi-solid are not liquids, nor are they

fluids. Any other interpretation of Housley contradicts the “liquid” language that is repeatedly used by Housley when describing oil. Consequently, the rejection cannot stand.

Since Applicants cannot determine how a liquid or fluid oil, as described by Housley, can be solid or semi-solid, if the rejection stands, Applicants request the Examiner to specifically explain how the Office action assertion can be reconciled in view of Housley's description of run-off oil as a **liquid** and a **liquid or fluid** that can **flow**. (Housley, col. 2, lines 59-64; col. 5, lines 60-65; col. 9, line 58 - col. 10, line 4).

**B. Runoff Oil Liquids That Are Extracted From a Food Item Are Expressly Excluded From Being An “Ingredient” As Recited In Applicants’ Claims.**

Applicants respectfully submit that Housley does not disclose or suggest “a solid or semi-solid gelatinous ingredient for the food item, wherein said gelatinous ingredient is not extracted from the food item being prepared...” and the “not extracted from” limitations of independent claims 15, 39 and 53.

The Examiner concedes that grease is extracted from the food item by stating “The grease that is extracted from the food item, but the water and oil are adding to the food or adding to the apparatus before cooking.” (February 18, 2005 Final Office Action, para. 12). Then, the recent Office action states that oil is not extracted from the food item. Rather, the Office action asserts that oil is added to the food item before cooking. (June 22, 2005 Office Action, para. 9.).

The Office action, however, fails to acknowledge that in each reference to “oil,” Housley only describes run-off liquids (water, oil, grease), and these run-off liquids are extracted from a food item:

**liquids** (i.e., **water, oil, grease**, etc.) may be collected from those **food items** disposed on or suspended above the upper cooking surface of the cooking grill. (Housley, Abstract) (emphasis added)

**liquids** (e.g., **water, oil, grease**, etc.) may be collected from one or more **food items** positioned on or suspended above the upper cooking surface of the cooking grill. (Housley, col. 2, lines 59-64) (emphasis added)

**run-off liquids** (e.g., **water, oil grease**, etc.) through the openings 36 and into the underlying collection reservoir 34 of the cooking grill 30. (Housley, col. 5, lines 60-65) (emphasis added).

**run-off liquids** (e.g., water, oil, grease, etc.) (Housley, col. 9, line 58 - col. 10, line 4) (emphasis added).

**run-off liquids** (e.g., water, oil, grease, etc.) ... **run-off liquids extracted from food item(s)** positioned on or suspended above the upper cooking surface of the containment lid 164. (Housley, col. 10, lines 15-21) (emphasis added).

The Examiner has already conceded that grease is extracted from the food item. Thus, the assertion that oil is not extracted from the food item is inconsistent with this concession, particularly considering that every reference to “oil” in Housley is in the context of a run-off liquids of water, oil and grease, and every reference to “oil” in Housley is in the context of run-off liquids that are extracted or collected from a food item.

In addition to these deficiencies, Housley does not disclose or suggest that oil is added to the food item before cooking, as asserted in the Office action. “The fact that a certain result or characteristic may occur or be present in the prior art is not enough to establish the inherency of that result or characteristic.” MPEP §2112; *In re Richer*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was not based on what was necessarily by present in the prior art). In the instant case, the Office action asserts that oil is added to the food item before heating, but, nowhere does Housley actually disclose this. Rather, Housley only states that oil drains or runs off from the food item as a liquid. (Housley, Abstract, col. 2, lines 59-64, col. 5, lines 60-65, col. 9, line 58, col. 10, line 4, col. 10, lines 15-21).

Nevertheless, even adopting the Office action’s position, the oil that is applied to the food item before cooking would be absorbed by the food item and, thereafter, would be extracted from the food item as a run-off liquid. Accordingly, the Office action assertion, which is not even supported by Housley, is also deficient.

Since Applicants cannot determine how run-off liquids that are extracted from a food item, as described by Housley, can be construed as not being extracted from a food item, if the rejection stands, Applicants request the Examiner to specifically explain how the Office action assertion can be reconciled in view of Housefly’s description of run-off oil and other liquids being extracted from food items. (Housley, col. 2, lines 59-64; col. 5, lines 60-65; col. 9, line 58; col. 10, line 4).

**C. Run-Off Liquids Identified In The Office Action Are Not “Gelatinous”.**

Applicants respectfully submit that Housley does not disclose or suggest “a solid or semi-solid gelatinous ingredient” as called for by independent claim 1. Independent claims 15, 39 and 53 include similar “gelatinous” limitations. The application describes the gelatinous ingredient as having a gelatinous base that includes, e.g., an agar gum and corn syrup solids. (Application, p. 12, line 10 - p. 14, line 27).

As discussed above, Housley explains that run-off water, oil and grease are not gelatinous and instead, are liquids:

**liquids** (i.e., water, **oil**, grease, etc.) may be collected from those food items disposed on or suspended above the upper cooking surface of the cooking grill. (Housley, Abstract) (emphasis added)

**liquids** (e.g., water, **oil**, grease, etc.) may be collected from one or more food items positioned on or suspended above the upper cooking surface of the cooking grill. (Housley, col. 2, lines 59-64) (emphasis added)

**run-off liquids** (e.g., water, **oil** grease, etc.) through the openings 36 and into the underlying collection reservoir 34 of the cooking grill 30. (Housley, col. 5, lines 60-65) (emphasis added).

**run-off liquids** (e.g., water, **oil**, grease, etc.) (Housley, col. 9, line 58 - col. 10, line 4) (emphasis added).

**run-off liquids** (e.g., water, **oil**, grease, etc.) ... run-off liquids extracted from food item(s) positioned on or suspended above the upper cooking surface of the containment lid 164. (Housley, col. 10, lines 15-21) (emphasis added).

Housley does not describe oil in any other manner. Accordingly, the Office action assertion contradicts the cited reference.

**D. Run-Off Liquids Identified In the Office Action Do Not Generate Steam That Rises Through Grill Apertures And Is Applied To A Food Item.**

Applicants respectfully submit that Housley does not disclose or suggest “said gelatinous ingredient being located in said lower housing section and below said grill so that steam from heating said gelatinous ingredient is applied to the food item through the apertures of said grill,” as recited in independent claim 15 and the related “through the apertures” limitations of

independent claims 39 and 53, Housley also fails to disclose or suggest “steam from said gelatinous ingredient being applied to a bottom surface of the food item,” is recited on claim 27.

In contrast, Housley describes a configuration in which a reservoir 34 is positioned below the bottom surface of the grill in order to collect the run-off liquids. In order to collect the run-off liquids, the collection reservoir 34 has a solid bottom. If the bottom were not solid, then the run-off liquids could not be collected, and the described reservoir would not be functional and would be rendered inoperable. Consequently, any steam that is generated from heating water is blocked by the reservoir 34 and, therefore, does not pass through the grill apertures. Thus, the steam would not be applied to the bottom of the food. Moreover, water that is added to the cooking apparatus described by Housley for purposes of steaming is introduced into a periphery of the reservoir 34, not in a lower housing section.

If the rejection stands, since Applicants cannot determine how steam can rise through a solid collection reservoir 34, as described by Housley, Applicants request that the Examiner specifically explain how this can be accomplished. Further, Applicants note that the Office action assertion results in the device being inoperable for the purpose of collecting run-off liquids. MPEP §2143.01; *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984).

**E. Run-Off Liquids Identified In The Office Action Do Not “At Least Partially Liquefy Or Melt From A Solid Or Semi-Solid State.”**

Applicants respectfully submit that Housley does not disclose or suggest “when said gelatinous ingredient is heated, said gelatinous ingredient at least partially liquefies or melts from the solid or semi-solid state and generates steam...” as raised in independent claim 1 and the related limitations of dependent claims 70-72. As discussed above, the Office action refers to run-off **liquids** (water, **oil** and grease) as the ingredient recited in claim 1. Since oil is already a liquid, as described by Housley, oil is not a solid or semi-solid, and does partially liquefy or melt from a solid or semi-solid state.

**F. Oil That Is Added To The Cooking Apparatus Described By Housley Is Not Below The Grill.**

Housley does not disclose or suggest limitations of independent claims 1, 15, 39 and 53 that recite that a gelatinous ingredient is “below said grill.” The Office action assertion, which is not supported by Housley, asserts that “oil is applied to the item before cooking.” (June 22 Office action, para. 9). Thus, there is no ingredient “below said grill”. Since the food item is above the grill as described in Housley, Housley, therefore, cannot support the rejection.

**IV. Dependent Claims 2, 6, 14, 18, 19, 23, 27-29, 31, 40-42, 45, 47, 49, 50, 56, 59-62, 66-69 and 70-72 Are Novel Over Housley**

Dependent claims 2, 6, 14, 18, 19, 23, 27-29, 31, 40-42, 45, 47, 49, 50, 56, 59-62, 66-69 and 70-72 are rejected under 35 U.S.C. §102(b) as being anticipated by Housley. These dependent claims incorporate all of the elements and limitations of respective independent claims 1, 15, 39 and 53 and add novel and non-obvious limitations thereto. Housley is, therefore, deficient relative to the dependent claims and cannot support the rejection. Certain dependent claims are discussed above, and Applicants respectfully submit the following remarks regarding various other dependent claims to further demonstrate that Housley cannot support the rejection.

**A. Oil Identified By The Examiner Does Not Have A Defined Shape Until Being Heated.**

Dependent claims 59-62, as amended, recite limitations related to the gelatinous ingredient having defined shape until being heated...

The Office action identifies “oil” as the asserted ingredient. As discussed above, Housley explains that oil is a liquid. The Office action assertion, which is not supported by Housley, is based on adding oil (as a liquid) to the food item before cooking.

Therefore, claims 59-62 are novel over Housley since the Office action relies on adding oil, which is a liquid that has an undefined shape before being heated, and which is the opposite of Applicants’ claims 59-62, reciting a defined shape until being heated.



**B. Oil Does Not Pass Through Grill Apertures To A Bottom Section Of The Microwaveable Housing.**

Dependent claim 14 calls for “said grill being arranged so that a liquid from said heated food item passes through the apertures to a bottom section of said microwaveable housing.” Dependent claims 23 and 45 include similar limitations. In other words, liquid from a heated food item passes down through grill apertures, e.g., due to gravity, and into the bottom of the housing.

Housley, in contrast, describes an apparatus having a grill 30, which includes a collection reservoir 34. Run-off liquids, including oil, do not drop down to the bottom of the cooking apparatus. Instead, they are collected by the reservoir 34 that is suspended above the bottom of the apparatus. Housley explains:

In cooperation with the plurality of openings 36, collection channels 38 may be formed in the upper cooking surface 32 so as to provide means for feeding run-off liquids (e.g., water, oil grease, etc.) through the openings 36 and into the underlying collection reservoir 34 of the cooking grill 30. Functionally, the collection reservoir 34 of the cooking grill 30 provides means for collecting run-off liquids extracted from food item(s) positioned on or suspended above the upper cooking surface 32. The liquids generally flow by way of gravity into the collection channels 38 which tend to divert the fluid flow through the openings 36 formed in the upper cooking surface 32 of the cooking grill 30 and into the collection reservoir 34 for accumulation. (Housley, col. 5, line 55 - col. 6, line 5) (emphasis added).

Since Applicants cannot determine how run-off liquids (water, oil, grease) that are collected by a reservoir 34 positioned above the bottom of the apparatus can be construed as being in the bottom section of the apparatus, as described by Housley, Applicants request that the Examiner specifically explain how this configuration reads on claims 14, 23 and 45.

**C. Oil That Is Added To The Cooking Apparatus Is Not In A Reservoir Formed In A Lower Housing Section.**

Dependent claim 29 recites in part “said gelatinous ingredient being positioned in a reservoir formed in said lower housing section.” Dependent claim 47 includes a similar limitation. Dependent claims 66-69 include limitations directed to the gelatinous ingredient being positioned on a bottom surface of the lower housing section.

As discussed above, the Office action assertion, which is not supported by Housley, states that “oil is applied to the item before cooking.” (June 22 Office action, para. 9). Housley, therefore, cannot support the rejection.

**D. Oil Does Not Include The Ingredient Characteristics Recited In Various Dependent Claims.**

In view of the Office action specifying that “oil” is the asserted ingredient, Applicants respectfully submit that Housley does not disclose or suggest ingredients recited in various dependent claims. As discussed above, Housley refers to “oil” in only five instances, each of which is in the context of a run-off liquid that is extracted from the food item. The “oil” that is mentioned in Housley is not described in further detail.

Correspondingly, Housley does not disclose or suggest “steam from heating said gelatinous ingredient including a flavoring that is applied to the food item” as recited in dependent claims 6 and 31. Further, Housley does not disclose or suggest “the flavoring comprising a charcoal flavoring,” “the flavoring comprising a beef flavoring,” “the flavoring comprising a barbeque flavoring,” and “the flavoring comprising a lemon flavoring” as recited in respective dependent claims 7-10 and 32-35. Housley does not disclose or suggest “steam from heating said gelatinous ingredient including an aroma that is applied to the food item” as recited in dependent claims 11 and 36. Housley also does not disclose or suggest “steam from heating said gelatinous ingredient including a coloring that is applied to the food item,” “the coloring comprising a caramel coloring” as recited in dependent claims 12, 13, 37, 38.

Rather, Housley merely refers to “oil” without any further description of the characteristics and ingredients of the oil. None of the claimed ingredient characteristics are described in Housley. Accordingly, the “oil” identified by the Examiner cannot support the rejection due to this insufficient disclosure. MPEP §2112; *In re Rijchaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was not based on what was necessarily present in the prior art). Further, the Examiner has not set forth any basis regarding why the oil would include the ingredients recited in these claims.

**V. Dependent Claims 3, 20-22, 43, 44 And 54 Are Patentable Over Housley In View Of Koochaki.**

Dependent claims 3, 20-22, 43, 44 and 54 are rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,229,131 to Koochaki ("Koochaki").

Under 35 U.S.C. §103(a), to establish a *prima facie* case of obviousness of a claim, all the claim limitations must be taught or suggested by the prior art, and all words in a claim must be considered in judging the patentability of that claim against the prior art. MPEP §§2143; 2143.03; *In re Royka*, 490 F.2d 981 (CCPA 1974). Moreover, there must be some suggestion or motivation to modify the reference, and a reasonable expectation of success. MPEP §§2143.01-2143.03; *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990).

Koochaki, however, does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Accordingly, the Applicants respectfully request that the rejection of dependent claims 3, 20-22, 43, 44 and 54 under 35 U.S.C. §103(a) be withdrawn.

**VI. Dependent Claims 4, 24-26, 46 And 55 Are Patentable Over Housley In View Of Levinson.**

Dependent claims 4, 24-26, 46 and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 4,923,704 to Levinson ("Levinson"). Levinson does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Accordingly, the Applicants respectfully request that the rejection of dependent claims 4, 24-26, 46 and 55 under 35 U.S.C. §103(a) be withdrawn.

**VII. Dependent Claims 3, 20-22, 43, 44, 48 And 54 Are Patentable Over Housley In View Of Craft.**

Dependent claims 3, 20-22, 43, 44, 48 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,018,157 to Craft ("Craft"). Craft does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Applicants respectfully request that the rejection of dependent claims 3, 20-22, 43, 44, 48 and 54 under 35 U.S.C. §103(a) be withdrawn.

**VIII. Dependent Claims 16, 17, 51 And 52 Are Patentable Over Housley In View Of Barnes.**

Dependent claims 16, 17, 51 and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,608,292 to Barnes (“Barnes”). Barnes does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Further, the required suggestion or notation to combine the references is lacking.

Barnes describes a microwave grilling appliance that includes a pair of grill elements, each having heat conducting elements and troughs that are formed in the periphery of the grill elements. The grill elements, however, do not have apertures. Housley, on the other hand, describes a utensil that includes a single grill element having apertures, and a food item that is placed on top of the grill. Liquid that drains from the food item passes through the apertures, and is collected by a reservoir that is suspended above the bottom of the utensil.

Applicants respectfully request that the rejection of dependent claims 16, 17, 51 and 52 under 35 U.S.C. §103(a) be withdrawn.

**IX. Dependent Claims 7-13, 32-38, 57 And 58 Are Patentable Over Housley In View Of Choy.**

Dependent claims 7-13, 32-38, 57 and 58 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of GB 2,308,465 to Choy (“Choy”). Choy does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Applicants respectfully request that the rejection of dependent claims 7-13, 32-38, 57 and 58 under 35 U.S.C. §103(a) be withdrawn.

**X. New Dependent Claims 73-88 Are Novel and Non-Obvious Over the Cited References.**

New dependent claims 73-88 depend from respective independent claims 1, 15, 39 and 53. Applicants respectfully submit that these new dependent claims are novel and non-obvious over the cited references.

**VIII. Dependent Claims 16, 17, 51 And 52 Are Patentable Over Housley In View Of Barnes.**

Dependent claims 16, 17, 51 and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,608,292 to Barnes ("Barnes"). Barnes does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Further, the required suggestion or notation to combine the references is lacking.

Barnes describes a microwave grilling appliance that includes a pair of grill elements, each having heat conducting elements and troughs that are formed in the periphery of the grill elements. The grill elements, however, do not have apertures. Housley, on the other hand, describes a utensil that includes a single grill element having apertures, and a food item that is placed on top of the grill. Liquid that drains from the food item passes through the apertures, and is collected by a reservoir that is suspended above the bottom of the utensil.

Applicants respectfully request that the rejection of dependent claims 16, 17, 51 and 52 under 35 U.S.C. §103(a) be withdrawn.

**IX. Dependent Claims 7-13, 32-38, 57 And 58 Are Patentable Over Housley In View Of Choy.**

Dependent claims 7-13, 32-38, 57 and 58 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of GB 2,308,465 to Choy ("Choy"). Choy does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Applicants respectfully request that the rejection of dependent claims 7-13, 32-38, 57 and 58 under 35 U.S.C. §103(a) be withdrawn.

**X. New Dependent Claims 73-88 Are Novel and Non-Obvious Over the Cited References.**

New dependent claims 73-88 depend from respective independent claims 1, 15, 39 and 53. Applicants respectfully submit that these new dependent claims are novel and non-obvious over the cited references.

New dependent claims 73-76 include limitations related to the gelatinous ingredient including “a corn syrup ingredient and an agar ingredient.” Housley, however, describes run-off liquids (water, grease, oil), and the Office action has specified “oil” as the asserted ingredient. The oil described in Housley, however, does not include corn syrup and agar ingredients.

New dependent claims 77-80 include limitations related to the gelatinous ingredient being “initially applied to the food item during heating in the microwave oven.” The Office action has only referred to “oil” that is added to a food item before cooking. Specifically the Office action’s assertion, which is not supported by Housley, nevertheless asserts that “oil is applied to the item before cooking...” rather than being initially applied to the food item during heating in the microwave oven.

New dependent claims 81-84 include limitations related to a gelatinous ingredient that is “contained within the bottom portion of the microwaveable housing prior to heating.” The Office action has only referred to “oil” and although not described by Housley, asserts that this oil is added to a food item before cooking” rather than an ingredient that is within the bottom portion of the microwaveable housing prior to heating.

New dependent claims 85-88 include limitations related to the gelatinous ingredient being in a solid or semi-solid state when placed in the microwaveable housing. The cited references are clearly deficient relative to these claims. The Office action has only referred to “oil” that is added to a food item before cooking...” Presumably, the Office action asserts that oil is a liquid when added to the food item, which is the opposite of the gelatinous ingredient being a solid or semi-solid when placed in the microwaveable housing.

#### **XI. Interview Request.**

Applicants have not yet requested an interview in this case. If a Notice of Allowance is not issued following this Amendment, Applicants respectfully request an interview with the Examiner. Applicants are normally entitled to at least one interview. MPEP §§713.01; 713.09.

## **XII. CONCLUSION**


Based on the forgoing amendments and remarks, the Applicants respectfully submit that the application is in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues that can be resolved by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

**BINGHAM McCUTCHEN, LLP**

Dated: August 12, 2005

By:

  
\_\_\_\_\_  
Gary D. Lueck  
Registration No. 50,791  
Attorneys for Applicants

Three Embarcadero Center, Suite 1800  
San Francisco, California 94111-4067  
Telephone: (213) 680-6400  
Facsimile: (213) 680-6499